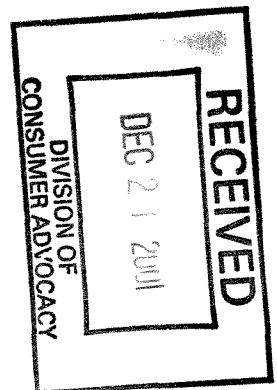


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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
YOUNG BROTHERS, LIMITED)
For Allowance of Rate Flexibility)
Within a Reasonable Zone or, in)
the Alternative, For a General)
Rate Increase.)
_____)

DOCKET NO. 01-0255



DECISION AND ORDER NO. 19115

Filed Dec. 20, 2001
At 4:00 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
YOUNG BROTHERS, LIMITED)	Docket No. 01-0255
For Allowance of Rate Flexibility)	
Within a Reasonable Zone or, in)	Decision and Order No. 19115
the Alternative, For a General)	
Rate Increase.)	
_____)	

DECISION AND ORDER

I.

On August 1, 2001, YOUNG BROTHERS, LIMITED (YB or Company) filed a notice of intent to file an application for allowance of rate flexibility within a reasonable zone, or in the alternative, for a general rate increase, pursuant to Hawaii Revised Statutes (HRS) §§ 271G-16 and 271G-17, and Hawaii Administrative Rules (HAR) §§ 6-61-85, 6-61-94, 6-65-5, 6-65-30 and 6-61-31. On October 1, 2001, YB filed the instant application which requests, among other things, commission approval to establish a practice of rate flexibility within a reasonable zone (the Practice). As proposed, establishment of the zone would allow YB to increase rates by an annual maximum of 7.5 per cent and decrease rates by an annual maximum of 10 per cent, without a rate case proceeding, provided that YB does not exceed its authorized allowed rate of return on its average depreciated rate base. YB's application is made pursuant to HRS §§ 271G-16 and 271G-17, and HAR § 6-61-94.

YB served copies of the application on the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (Consumer Advocate). YB and the Consumer Advocate, the only parties to this docket, informally exchanged information and met on November 13, 2001, and December 4, 2001, to discuss disputed issues. On December 13, 2001, the Consumer Advocate filed its statement of position. On December 14, 2001, the parties filed the Stipulation Between Young Brothers, Limited and the Division of Consumer Advocacy Regarding Young Brothers Application for Rate Flexibility Within a Reasonable Zone, dated December 14, 2001 (Stipulation), which resolves the parties' differences as to the factual aspects of the docket.

II.

A.

YB is a Hawaii corporation authorized to operate as a common carrier by water under the Hawaii Water Carrier Act. YB transports property by barge between all major islands of the State of Hawaii under twelve scheduled weekly departures from Honolulu to ports on each island. The service is provided under the terms set forth in Local Freight Tariff No. 5-A which contains the commodity rates to be charged for the transport of property, as well as the sailing schedules and general rules applicable to all shipments.

B.

YB proposes to establish rate flexibility within a reasonable zone which would allow YB to file for a maximum annual rate increase of up to 7.5 per cent above, or a maximum annual rate

decrease of up to 10 per cent below, the rate or rates in effect, without filing a rate case, provided that YB does not exceed its authorized 11.06 per cent rate of return on its average depreciated rate base.¹

The proposed maximum annual increase of up to 7.5 per cent and decrease of up to 10 per cent are identical to the percentages allowed by the Federal Maritime Statutes, 49 USC § 13702, et seq.² In lieu of filing a rate case, YB will provide at least 45 days notice of any proposed rate change to a customer class or commodity, by tariff filing, as required by HRS § 271G-17(b).

YB contends that the proposed Practice will provide the following benefits:

1. A more streamlined regulatory process for the ultimate benefit of YB's ratepayers, which substantially eliminates regulatory lag for rate adjustments within a reasonable zone, and reduces the substantial costs associated with the regulatory process for the commission, the Consumer Advocate, and the Company.
2. Improvements in the level of service to customers by providing YB with greater flexibility, within acceptable limits, to be more responsive to

¹YB's current authorized rate of return of 11.06 per cent was set by Decision and Order No. 16008, filed on October 10, 1997, in Docket No. 96-0483 (YB's last general rate proceeding using a 1997 test year).

²The Company's proposal to utilize the federal maritime thresholds was based on available case precedence, a track record of how this procedure works as enacted, ease of reference, and consistency with federal maritime statutes.

customers' needs and meet increasing competition primarily from interstate carriers who are not regulated by the commission under the Hawaii Water Carrier Act, HRS, chapter 271-G.

3. Safeguards to ensure that there is reasonable protection of the public interest.

C.

The Stipulation provides the following agreements, terms and conditions:

1. The Consumer Advocate will not oppose the commission's approval of the company's proposed rate flexibility program provided that the zone of reasonableness is established as follows:
 - a. Commencing with the effective date of the Practice, the maximum annual increase threshold of 5.5 per cent over a 12-month period is adopted for any customer class or classes, in lieu of the Company's proposed 7.5 per cent, and
 - b. Commencing with the effective date of the Practice, the maximum annual decrease of 10 per cent over a 12-month period for any customer class or classes is allowed, on the condition that any decrease proposed for a given customer class does not result in non-compensatory rates for the customer class.

2. The range of the zone of reasonableness and the continuation of the program will be evaluated and re-determined at the end of a three-year pilot program period. If the commission accepts the Stipulation between YB and the Consumer Advocate, then before the end of the three-year pilot program period, YB and the Consumer Advocate agree to meet and evaluate whether to continue the Practice of filing for rate flexibility within a zone of reasonableness.
 - a. If YB and the Consumer Advocate mutually agree to continue the Practice in accordance with the terms of the Stipulation, then the Practice shall continue until further order of the commission.
 - b. In the alternative, if YB and the Consumer Advocate are in mutual agreement to continue the Practice, but differ as to the range of the zone of reasonableness, YB and the Consumer Advocate shall meet and discuss a new range of the zone of reasonableness. If the parties reach an agreement, they shall file a Stipulation setting forth the new range of the zone of reasonableness and the terms of the Practice for review and approval by the commission. Pending approval by the commission of the proposed rates and terms, the current Practice and zone of

reasonableness shall remain in effect until further order by the commission.

- c. If YB and the Consumer Advocate are not able to mutually agree on a new zone of reasonableness at the end of three years, the Practice shall become null and void and have no future force or effect.

The three-year pilot program shall begin on the effective date of this order.

- 3. Cost of Service Study. During the first year of the three-year pilot program, YB will file, by separate filing under protective order, a cost of service study for commission approval. The filing will be made no later than the second quarter of 2002.

- a. The cost of service study will be based on 2001 operating data and will include the current costs of providing each cargo category, and a breakdown between regulated and non-regulated revenues, expenses and plant investment. The study will also set forth rates that would be necessary for each tariff rate to be fully compensatory.
- b. The cost of service study should also enable the parties to ascertain the level of change in the existing rates that would be necessary for the Company to have fully compensatory rates for each of its cargo offerings.

- c. For each of the second and third years of the three-year pilot program, YB also agrees to file the then approved cost of service study under protective order by June 30 of the following year, to reflect the prior year's results. This filing will include a breakdown between regulated and non-regulated revenues, expenses, and plant investment, and should enable the parties to determine the contribution margin of each of the then existing tariffs, based on current operations.
4. YB will continue to comply with HRS § 271-G-17(b), which specifically provides that:

No change shall be made in any rate ...
except after forty-five days' notice of
the proposed change filed and posted ...

During the 45-day period after notice of a proposed rate change, the Consumer Advocate will have the opportunity to review YB's proposal and recommend suspension of the proposed change if there are any concerns that cannot be resolved within the 45-day period.

5. If prior to the filing of its initial cost of service study, the Company submits a proposed rate change under the Practice agreed to in this pilot program, the Company will provide the following financial information with its filing:
- a. Prior year financial statements as submitted to the commission,

- b. Test year financial statements submitted to the commission, and
 - c. The impact of the proposed change to YB's authorized allowed rate of return for the test year.
6. After commission approval of any cost of service study, future proposed changes to the tariff will include in addition to that stated in Item No. 5 above, the impact of the proposed change to the contribution margins as represented in the cost of service study.

III.

Upon review of the record, including but not limited to the December 14, 2001 Stipulation, we find that, in general, the agreements, terms and conditions agreed to by the parties are reasonable and in the public interest. We thus conclude that the proposed agreements, terms and conditions set forth in the December 14, 2001 Stipulation should be approved and made part of this order, subject to the following modification and clarification.

Section IV entitled "STIPULATED MATTERS" paragraph no. 2.c. shall be modified as follows:

If YB and the Consumer Advocate are not able to mutually agree on a new zone of reasonableness at the end of three years, YB and the Consumer Advocate shall file their respective positions with the commission for the commission's determination. The Practice shall continue until further order of the commission.

Further, we clarify, with respect to Section IV, paragraph no. 3.c., that each of the cost of service studies filed in the second and third years shall be filed, by separate filing under protective order, for commission approval.

IV.

THE COMMISSION ORDERS:

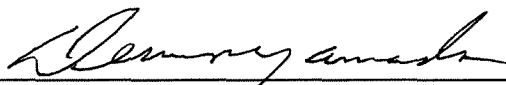
1. The proposed agreements, terms and conditions of the parties' Stipulation, filed on December 14, 2001, are approved and shall be made part of this order, subject to the modification and clarification described above.

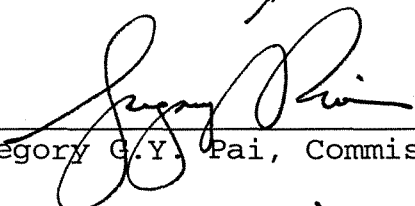
2. If necessary, the Consumer Advocate may file the applicable motions requesting the commission to institute investigations or proceedings for appropriate relief consistent with its statutory powers and duties set forth in HRS § 269-54.


3. The commission, upon its own initiative or upon motion, reserves the right to reopen this docket or open a separate docket at any time to institute an investigation or other proceedings to ensure, among other things, that the ratepayers affected by the instant proceeding are protected and that the implementation of the December 14, 2001 Stipulation is consistent with HRS, chapter 271-G.

DONE at Honolulu, Hawaii this 20th day of December,
2001.

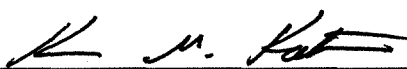
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Dennis R. Yamada, Chairman

By 
Gregory G.Y. Pai, Commissioner

By 
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:


Kevin M. Katsura
Commission Counsel
01-0255.ac


CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 19115 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Catherine Sakato

DATED: December 20, 2001